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NOTICE OF ALLOWANCE AND FEE(S) DUE

26138 7590 12/01/2009

Joseph R. Baker, APC
Gavrilovich, Dodd & Lindsey LLP
4660 La Jolla Village Drive, Suite 750
San Diego, CA 92122

EXAMINER	
GUPTA, ANISH	
ART UNIT	PAPER NUMBER
1654	

DATE MAILED: 12/01/2009

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,537	08/29/2006	Richard Gallo	00015-019US1/SD2004-043-2	1656

TITLE OF INVENTION: HUMAN CATHELICIDIN ANTIMICROBIAL PEPTIDES

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	$755	$300	$0	$1055	03/01/2010

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

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B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PTOL-85 (Rev. 08/07) Approved for use through 08/31/2010.

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Complete and send this form, together with applicable fee(s), to: Mail **Mail Stop ISSUE FEE**
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INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

26138 7590 12/01/2009

Joseph R. Baker, APC
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4660 La Jolla Village Drive, Suite 750
San Diego, CA 92122

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I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)

(Signature)

(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,537	08/29/2006	Richard Gallo	00015-019US1/SD2004-043-2	1656

TITLE OF INVENTION: HUMAN CATHELICIDIN ANTIMICROBIAL PEPTIDES

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	$755	$300	$0	$1055	03/01/2010

EXAMINER	ART UNIT	CLASS-SUBCLASS
GUPTA, ANISH	1654	530-326000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,

(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 _____

2 _____

3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) : ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

☐ Issue Fee

☐ Publication Fee (No small entity discount permitted)

☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): **(Please first reapply any previously paid issue fee shown above)**

☐ A check is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)

☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,537	08/29/2006	Richard Gallo	00015-019US1/SD2004-043-2	1656

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EXAMINER	
GUPTA, ANISH	
ART UNIT	PAPER NUMBER
1654	

DATE MAILED: 12/01/2009

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 491 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 491 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (http://pair.uspto.gov).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

Notice of Allowability	Application No.	Applicant(s)	
	10/575,537	GALLO ET AL.	
	Examiner	Art Unit	
	ANISH GUPTA	1654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to _____.

2. ☒ The allowed claim(s) is/are *1, 3-5, 7, 19, 21-23, 25, 28-29, 31-44, 50-54, 57-59 and 61*.

3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
   a) ☐ All b) ☐ Some* c) ☐ None of the:
      1. ☐ Certified copies of the priority documents have been received.
      2. ☐ Certified copies of the priority documents have been received in Application No. _____ .
      3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

   * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
   (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
   (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

   Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____ .
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

/Anish Gupta/
Primary Examiner, Art Unit 1654

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Joseph Baker on November 23, 2009.

The application has been amended as follows:

Claims 9-18, 20, 24, 26, 27, 30, 45-49, 55-56, 60 and 62-68 are canceled.

The following claims have been amended:

1. A substantially purified polypeptide:

(a) consisting of 16-20 amino acids in length; and

(b) containing the sequence $X_1X_2X_3X_4X_5X_6IKX_7FX_8X_9X_{10}LX_{11}P$ (SEQ ID NO:1), wherein X_1, X_2, and X_6 are individually K or R; wherein X_3 is I or K; wherein X_4 is V or G; wherein X_5 is Q or R; wherein X_7, X_9, X_{10}, and X_{11} are each individually any amino acid; wherein X_8 is L or F and wherein the polypeptide comprises antibacterial and/or ~~antimicrobial~~, antifungal~~, and/or antiviral~~ activity.

4. A substantially purified polypeptide

(a) consisting of about 26 to [[30]] 28 amino acids in length; and

(b) containing the sequence $X_1X_2X_3X_4X_5X_6IKX_7FX_8X_9X_{10}LX_{11}P$ (SEQ ID NO:1), wherein X_1, X_2, and X_6 are individually K or R; wherein X_3 is I or K; wherein X_4 is V or G; wherein X_5 is Q or R; wherein X_7, X_9, X_{10}, and X_{11} are each individually any amino acid; wherein X_8 is L or F and wherein the polypeptide comprises antibacterial and/or ~~antimicrobial~~, antifungal~~, and/or antiviral~~ activity.

7. A substantially purified polypeptide consisting of a sequence selected from the group consisting of:

(a) RKSKEKIGKEFKRIVQRIKDFLRNLVP (SEQ ID NO:23);

(b) RKSKEKIGKEFKRIVQRIKDFLRNLVPR (SEQ ID NO:24);

(c) RKSKEKIGKEFKRIVQRIKDFLRNLVPRT (SEQ ID NO:25);

(d) RKSKEKIGKEFKRIVQRIKDFLRNLVPRTE (SEQ ID NO:26);

(e) RKSKEKIGKEFKRIVQRIKDFLRNLVPRTES (SEQ ID NO:27)

(f) LGDFFRKSKEKIGKEFKRIVQRIKDFLRNLVPRTES (SEQ ID NO:28).

19. A method of inhibiting the growth of a ~~microbe~~ bacteria or fungus comprising contacting the ~~microbe~~ bacteria or fungus with an inhibiting effective amount of a peptide ~~that is 16-36 amino acids in length; and contains the sequence NH_2-$X_1X_2X_3X_4X_5X_6IKX_7FX_8X_9X_{10}LX_{11}$P-COOH (SEQ ID NO:1), wherein X_1, X_2, and X_6 are individually K or R; wherein X_3 is I or K; wherein X_4 is V or G; wherein X_5 is Q or R; wherein X_7, X_9, X_{10}, and X_{11} are each individually any amino acid; wherein X_8 is L or F and wherein the polypeptide comprises antimicrobial, antifungal, and/or antiviral activity~~ (a) consisting of 16-20 amino acids in length; and

(b) containing the sequence $X_1X_2X_3X_4X_5X_6IKX_7FX_8X_9X_{10}LX_{11}P$ (SEQ ID NO:1), wherein X_1, X_2, and X_6 are individually K or R; wherein X_3 is I or K; wherein X_4 is V or G; wherein X_5 is Q or R; wherein X_7, X_9, X_{10}, and X_{11} are each individually any amino acid; wherein X_8 is L or F and wherein the polypeptide comprises antibacterial and/or antifungal activity.

21. The method of claim [[20]] 19, wherein the peptide ~~comprises~~ consists of a sequence selected from the group consisting of:

(a) [[NH_2-]]KRIVQRIKDFLRNLVP[[-COOH]] (SEQ ID NO:13);

(b) [[NH_2-]]KRIVQRIKDFLRNLVPR[[-COOH]] (SEQ ID NO:14);

(c) [[NH_2-]]KRIVQRIKDFLRNLVPRT[[-COOH]] (SEQ ID NO:15);

(d) [[NH_2-]]KRIVQRIKDFLRNLVPRTE[[-COOH]] (SEQ ID NO:16); and

(e) [[NH_2-]]KRIVQRIKDFLRNLVPRTES[[-COOH]] (SEQ ID NO:17).

22. ~~The method of claim 19, wherein the~~ A method of inhibiting the growth of a bacteria or fungus comprising contacting the bacteria or fungus with an inhibiting effective amount of a peptide

(a) consisting of about 26 to [[30]] 28 amino acids in length; and

(b) containing the sequence $X_1X_2X_3X_4X_5X_6IKX_7FX_8X_9X_{10}LX_{11}P$ (SEQ ID NO:1), wherein X_1, X_2, and X_6 are individually K or R; wherein X_3 is I or K; wherein X_4 is V or G; wherein X_5 is Q or R; wherein X_7, X_8, X_{10}, and X_{11} are each individually any amino acid; wherein X_9 is L or F and wherein the polypeptide comprises antibacterial and/or antifungal activity.

23. The method of claim 22, wherein the peptide comprises a sequence selected from the group consisting of:

(a) [[NH_2-]]KSKEKIGKEFKRIVQRIKDFLRNLVP[[-COOH]] (SEQ ID NO:18);

(b) [[NH_2-]]KSKEKIGKEFKRIVQRIKDFLRNLVPR[[-COOH]] (SEQ ID NO:19);

(c) [[NH_2-]]KSKEKIGKEFKRIVQRIKDFLRNLVPRT[[-COOH]] (SEQ ID NO:20);

(d) [[NH_2-]]KSKEKIGKEFKRIVQRIKDFLRNLVPRTE[[-COOH]] (SEQ ID NO:21); and

(e) [[NH_2-]]KSKEKIGKEFKRIVQRIKDFLRNLVPRTES[[-COOH]] (SEQ ID NO:22).

25. ~~The method of claim 24, wherein the peptide comprises a~~ A method of inhibiting the growth of a bacteria or fungus comprising contacting the bacteria or fungus with an inhibiting effective amount of a polypeptide consisting of a sequence selected from the group consisting of:

(a) [[NH_2-]]RKSKEKIGKEFKRIVQRIKDFLRNLVP[[-COOH]] (SEQ ID NO:23);

(b) [[NH_2-]]RKSKEKIGKEFKRIVQRIKDFLRNLVPR[[-COOH]] (SEQ ID NO:24);

(c) [[NH_2-]]RKSKEKIGKEFKRIVQRIKDFLRNLVPRT[[-COOH]] (SEQ ID NO:25);

(d) [[NH_2-]]RKSKEKIGKEFKRIVQRIKDFLRNLVPRTE[[-COOH]] (SEQ ID NO:26);

(e) [[NH_2-]]RKSKEKIGKEFKRIVQRIKDFLRNLVPRTES[[-COOH]] (SEQ ID NO:27)

(f) LGDFFRKSKEKIGKEFKRIVQRIKDFLRNLVPRTES (SEQ ID NO:28).

28. The method of claim 19, 22, or 25, wherein the contacting is *in vitro*.

29. The method of claim 28, wherein the contacting is on a surface suspected of having a ~~microbe~~ bacteria or fungus.

31. The method of claim 19, 22 or 25, wherein the contacting is *in vivo*.

33. The method of claim [[30]] 19, 22 or 25, wherein the bacteria is gram positive.

35. The method of claim [[30]] 19, 22 or 25, wherein the bacteria is gram negative.

37. The method of claim 19, 22 or 25, wherein the peptide is administered in combination with at least one antibiotic.

39. The method of claim 37, wherein the antibiotic is selected from the group consisting of amikacin, gentamicin, kanamycin, netilmicin, t[[-]]obramycin, streptomycin, azithromycin, clarithromycin, erythromycin, erythromycin estolate/ethylsuccinate/gluceptatellactobionate/stearate, penicillin G, penicillin V, methicillin, nafcillin, oxacillin, cloxacillin, dicloxacillin, ampicillin, amoxicillin, ticarcillin, carbenicillin, mezlocillin, azlocillin, piperacillin, cephalothin, cefazolin, cefaclor, cefamandole, cefoxitin, cefuiroxime, cefonicid, cefmetazole, cefotetan, cefprozil, loracarbef, cefetamet, cefoperazone, cefotaxime, ceftizoxime, ceftriaxone, ceftazidime, cefepime, cefixime, cefpodoxime, cefsulodin, i[[-]]mipenem, aztreonam, fleroxacin, nalidixic acid, norfloxacin,

ciprofloxacin, ofloxacin, enoxacin, lomefloxacin, cinoxacin, doxycycline, m[[-]]inocycline, tetracycline, vancomycin, and teicoplanin.

50. A method of decontaminating a surface comprising contacting the surface with a composition comprising a cathelicidin functional fragment

(a) consisting of 16-20 amino acids in length; and

(b) containing the sequence $X_1X_2X_3X_4X_5X_6IKX_7FX_8X_9X_{10}LX_{11}P$ (SEQ ID NO:1), wherein X_1, X_2, and X_6 are individually K or R; wherein X_3 is I or K; wherein X_4 is V or G; wherein X_5 is Q or R; wherein X_7, X_9, X_{10}, and X_{11} are each individually any amino acid; wherein X_8 is L or F and wherein the polypeptide comprises antibacterial and/or antifungal activity.

57. The method of claim [[56]] 50, wherein the polypeptide comprises a sequence selected from the sequence consisting of:

(a) [[NH_2-]]KRIVQRIKDFLRNLVP[[-COOH]] (SEQ ID NO:13);

(b) [[NH_2-]]KRIVQRIKDFLRNLVPR[[-COOH]] (SEQ ID NO:14);

(c) [[NH_2-]]KRIVQRIKDFLRNLVPRT[[-COOH]] (SEQ ID NO:15);

(d) [[NH_2-]]KRIVQRIKDFLRNLVPRTE[[-COOH]] (SEQ ID NO:16); and

(e) [[NH_2-]]KRIVQRIKDFLRNLVPRTES[[-COOH]] (SEQ ID NO:17).

58. ~~The~~ A method of decontaminating a surface comprising contacting the surface with a composition comprising a cathelicidin functional fragment that ~~claim 55, wherein the polypeptide~~

(a) is about 26 to [[30]] 28 amino acids in length; and

(b) contains the sequence $X_1X_2X_3X_4X_5X_6IKX_7FX_8X_9X_{10}LX_{11}P$ (SEQ ID NO:1), wherein X_1, X_2, and X_6 are individually K or R; wherein X_3 is I or K; wherein X_4 is V or G; wherein X_5 is Q or R; wherein X_7, X_9, X_{10}, and X_{11} are each individually any amino acid; wherein X_8 is L or F and wherein the polypeptide comprises antibacterial and/or antifungal activity.

59. The method of claim 58, wherein the polypeptide comprises a sequence selected from the group consisting of:

(a) [[NH_2-]]KSKEKIGKEFKRIVQRIKDFLRNLVP[[-COOH]] (SEQ ID NO:18);

(b) [[NH_2-]]KSKEKIGKEFKRIVQRIKDFLRNLVPR[[-COOH]] (SEQ ID NO:19);

(c) [[NH_2-]]KSKEKIGKEFKRIVQRIKDFLRNLVPRT[[-COOH]] (SEQ ID NO:20);

(d) [[NH_2-]]KSKEKIGKEFKRIVQRIKDFLRNLVPRTE[[-COOH]] (SEQ ID NO:21); and

(e) [[NH_2-]]KSKEKIGKEFKRIVQRIKDFLRNLVPRTES[[-COOH]] (SEQ ID NO:22).

61. ~~The method of claim 60, wherein the polypeptide comprises~~ A method of decontaminating a surface comprising contacting the surface with a composition comprising a cathelicidin functional fragment consists of a sequence selected from the group consisting of:

(a) [[NH_2-]]RKSKEKIGKEFKRIVQRIKDFLRNLVP[[-COOH]] (SEQ ID NO:23);

(b) [[NH_2-]]RKSKEKIGKEFKRIVQRIKDFLRNLVPR[[-COOH]] (SEQ ID NO:24);

(c) [[NH_2-]]RKSKEKIGKEFKRIVQRIKDFLRNLVPRT[[-COOH]] (SEQ ID NO:25);

(d) [[NH_2-]]RKSKEKIGKEFKRIVQRIKDFLRNLVPRTE[[-COOH]] (SEQ ID NO:26);

(e) [[NH_2-]]RKSKEKIGKEFKRIVQRIKDFLRNLVPRTES[[-COOH]] (SEQ ID NO:27)

(f) LGDFFRKSKEKIGKEFKRIVQRIKDFLRNLVPRTES (SEQ ID NO:28).

Examiner's Comments

2. Support for the amendment to claims 4, 22, and 58 can be found on the paragraph bridging page 11-12, page 12, paragraph [0050] and page 13, paragraph [0054].

Reasons For Allowance

3. The following is an examiner's statement of reasons for allowance:

The claims are drawn to peptides between 16-20 amino acids and 26-28 amino acids in length and having the sequence $X_1X_2X_3X_4X_5X_6IKX_7FX_8X_9X_{10}LX_{11}P$ (SEQ ID NO:1), wherein X_1, X_2, and X_6 are individually K or R; wherein X_3 is I or K; wherein X_4 is V or G; wherein X_5 is Q or R; wherein X_7, X_9, X_{10}, and X_{11} are each individually any amino acid; wherein X_8 is L or F and wherein the polypeptide comprises antibacterial and/or, antifungal, activity.

The prior art of Johansson et al. (J. of Biol. Chem.) teaches two peptides that are the truncated versions of LL-37. The peptides have the sequence FFRKSKEKIGKEFKRIVQRIKDFLRNLVPRTES (FF33) and SKEKIGKEFKRIVQRIKDFLRNLVPRTES (SK29) (see page 3719). The reference discloses that both of these peptides had lower antibacterial activity relative to the native LL-37 (LLGDFFRKSKEKIGKEFKRIVQRIKDFLRNLVPRTES) 9seee page 3723). The shorter of the two, SK29 had less activity than the FF-33 peptide in medium E against D21 (see page 3722 and figure C). The claimed peptides are shorter than the peptides taught in Johansson et al.

The claims of the instant application are novel and unobvious because Johansson does not teach nor suggest that the peptides shorter than 29 amino acids. The reference also does not provide any motivation to make peptides shorter than 29 amino acids. The reference teaches that the truncated peptides lost antibacterial, with the shortest peptide having the worst activity against D21 in medium E. Accordingly, one would also expect losses in antibacterial activity of even shorter peptides of lengths between 16-20 and 26-28 amino acids as claimed. Thus, one would not be motivated to make shorter peptides given the teachings of Johansson et al.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

1. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anish Gupta whose telephone number is (571)272-0965. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cecilia Tsang, can normally be reached on (571) 272-0562. The fax phone number of this group is (571)-273-8300.

/Anish Gupta/
Primary Examiner, Art Unit 1654